

May 13, 2021

The Honorable James VanEerten  
Ottawa County Prosecuting Attorney  
Ottawa County Courthouse  
315 Madison Street, Suite 205  
Port Clinton, Ohio 43452

SYLLABUS: 2021-011

A deputy sheriff cannot simultaneously serve as a township trustee in a township that contracts with the county sheriff for police services.



**DAVE YOST**

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OPINION NO. 2021-011

The Honorable James VanEerten  
Ottawa County Prosecuting Attorney  
Ottawa County Courthouse  
315 Madison Street, Suite 205  
Port Clinton, Ohio 43452

Dear Prosecutor VanEerten:

You have requested an opinion on the compatibility of a deputy sheriff simultaneously serving as a township trustee. Specifically, you ask:

Can an individual serve simultaneously as an elected township trustee and a full-time paid deputy sherriff in a township that contracts with the sheriff's office for police services?

You report that the full-time paid deputy is currently assigned as a school resource officer in a different township than the one the deputy seeks office in, and that the deputy currently has no responsibilities to serve within the township where the deputy seeks office. You also report that the deputy is in neither a supervisory role nor a heightened advisory role within the Ottawa County Sherriff's Office.

Upon review, I find that the two positions are incompatible.

A seven-question test is used to determine if a person may simultaneously hold two public positions. The seven questions ask:

1. Is either position in the classified service for purposes of R.C. 124.57?
2. Does a constitutional provision or statute prohibit holding both positions at the same time?
3. Is one position subordinate to, or in any way a check upon, the other?
4. Is it physically possible for one person to discharge the duties of both positions?
5. Is there an impermissible conflict of interest between the two positions?
6. Are there local charter provisions, resolutions or ordinances that are controlling?
7. Is there a federal, state, or local department regulation applicable?

*E.g.*, 2014 Op. Att’y Gen. No. 2014-032, Slip Op. at 2 - 3; 2-277 to 2-278.

Question two, whether a constitutional provision or statute prohibits the simultaneous holding of both positions, is the determinative question for the matter at issue. R.C. 511.13 provides in part that “[n]o member of the board of township trustees or any officer or employee thereof shall be interested in any contract entered into by such board.” If a township trustee-elect has an interest in a contract with the township, the trustee-elect must either refuse the office of trustee or divest himself of the interest in the contract. *See* 2007 Op. Att’y Gen. No. 2007-044, at 2-440.

Prior opinions of my office found that this prohibition has broad application, and covers employees of a contracting entity. Specifically, “[a] trustee, officer, or

employee of a township who is employed by an entity with which the township enters into a contract has an interest in the contract for the purposes of R.C. 511.13, *regardless of whether it can be demonstrated that the trustee, officer, or employee has a direct pecuniary or personal interest in the contract.*” 2008 Op. Att’y Gen. No. 2008-002, at paragraph two of the syllabus (Emphasis added); *see* 2000 Op. Att’y Gen. No. 2000-015, at 2-88; *see also* 2016 Op. Att’y Gen. No. 2016-031, Slip Op. at 5; 2-363; *see also* 2016 Op. Att’y Gen. No. 2016-034, Slip Op. at 6; 2-405.

As mentioned in your request, the deputy works for a county sheriff that currently contracts for police services with the township that the deputy intends to serve as a township trustee. Thus, the deputy’s employer currently contracts with the township in which the deputy seeks office.

You state that the deputy currently serves as a school resource officer in a different township than the one in which the deputy seeks office. Moreover, the deputy has no official responsibilities within the township where he seeks office. Despite the deputy’s official posting and duties having no connection to the township where he seeks office, his apparent removal from the contracting process does not avoid the R.C. 511.13 prohibition. Previous opinions found that “[t]he person’s abstention from any discussions, negotiations, decision-making, or votes regarding the contract prior to the execution *does not affect the application of R.C. 511.13...* once a contract has been reached.” 2016 Op. Att’y Gen. No. 2016-034, Slip Op. at 6; 2-405 (Emphasis added); *see* 2008 Op. Att’y Gen. No. 2008-002, at 2-12 to 2-13; *see also* 2000 Op. Att’y Gen. No. 2000-015, at 2-91. Therefore, the deputy’s mere employment as a deputy is sufficient to trigger the R.C. 511.13 prohibition.

Since a statute prevents a person from serving as a township trustee when the person’s employer contracts with the township, question two is answered in the

affirmative and favors incompatibility. Given that all seven questions must be answered in favor of compatibility for a person to simultaneously serve in two public positions, the answer to question two is determinative. *See, e.g.*, 2015 Op. Att’y Gen. No. 2015-032, Slip Op. at 1; 2-308. I must conclude that a person cannot simultaneously serve as a township trustee and deputy sheriff when the county sheriff contracts with the township for police services.

Accordingly, it is my opinion, and you are hereby advised that:

A deputy sheriff cannot simultaneously serve as a township trustee in a township that contracts with the county sheriff for police services.

Respectfully,

A handwritten signature in blue ink that reads "Dave Yost". The signature is written in a cursive style with a large, looping initial "D".

DAVE YOST  
Ohio Attorney General